

RECEIVED
CENTRAL FAX CENTER

OCT 09 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Cheol Kim Art Unit : 3713
Serial No. : 09/254,058 Examiner : Kathleen M. Mosser
Filed : June 14, 1999 Action Date : August 16, 2007
Title : CAPTION TYPE LANGUAGE LEARNING SYSTEM USING CAPTION
TYPE LEARNING TERMINAL AND COMMUNICATION NETWORK

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: 571-273-8300

Renewed Petition under 37 C.F.R. §1.137(b)

Dear Sir or Madam:

This is in response to Decision Notice of August 16, 2007 re the above-referenced application. Applicant had submitted a Petition to Revive *Unintentionally* Abandoned Application under 37 CFR 1.137(b) together with an amendment, to which the Office of Petition dismissed the petition. Applicant respectfully requests reconsideration to grant the petition with reference to this renewed petition and the following.

The Commissioner is hereby authorized to charge additional fees, if any, or credit any overpayment to Deposit Account No 50-3566.

Application No.09/254,058

Attorney Docket: 2016-11

BRIEF HISTORY OF APPLICATION

RECEIVED
CENTRAL FAX CENTER
OCT 09 2007

02-26-1999: Application under 35 U.S.C. 371 entered

06-14-1999: 371 date assigned

05-31-2002: Restriction Requirement issued

10-03-2003: Non-final rejection issued

04-02-2004: Three-month extension obtained (fee paid)

04-02-2004: Division 10/817,650 entered for non-elected claims re *the Restriction*

04-03-2004: Application *abandoned*

11-20-2006: Petition submitted with Amendment

08-16-2007: Dismissal notice of the petition

ABANDONMENT WAS UNAVOIDABLE AND/OR UNINTENTIONAL

As briefed above, three-month extension to file an amendment to the non-final rejection of the original application was entered on the same day that a division of the original application was filed, where the common date is just one day shy of the statutory abandonment of April 3, 2004. The English-illiterate individual Applicant legitimately indicates that he would rather have donated the money for three month extension, instead of paying the extension fee knowing that the application would go abandoned *the next day*.

The Applicant enters that his previous patent attorney Mr. Wan-Hwee Lee in South Korea and/or the then U.S. council *Warner Norcross & Judd LLP* (WNJ) should be responsible for failing to timely submit an amendment, and still less failing to report the abandonment to the Applicant himself. The Applicant states that he became aware of the abandonment when he located Mr. Lee in South Korea in October 2006. Mr. Lee runs a single attorney's office *WANI Patent & Law Office* and had moved his office to a different location in Seoul, South Korea. The Applicant eventually located Mr. Lee and became aware of the abandonment. Instead of filing a lawsuit against Mr. Lee for malpractice and spending extra money, the Applicant decided to hire experienced attorneys at *Leaders P.L.C.* in Seoul, South Korea who then requested us *IPLA P.A.* to file an amendment and a petition to revive an abandoned application.

Applicant submits that he has diligently, desperately endeavored to obtain patents over the original application although he rested assured most of the time believing that Mr. Lee would well take care of the application. Applicant addresses that the previous patent attorney

Application No.09/254,058

Attorney Docket: 2016-11

Mr. Lee in South Korea should have urged WNJ to work in a timely manner and have reported to him the abandonment before he located Mr. Lee in October 2006. In view of foregoing, the Applicant submits that there has been no involvement of intentional abandonment of the original application.

In a simple verse, the previous council WNJ should have filed an amendment in addition to the *concurrent submission* of the request and payment (April 2, 2004) of three month extension and a divisional application (April 2, 2004) to seek non-elected claims from the response to the Restriction because Mr. Lee has never been unpaid by the Applicant for the application transactions with WNJ. The Applicant addresses that he paid for works of Mr. Lee and WNJ and had been waiting for patent certificates, only to find an abandonment beyond his will or expectation. No intention of abandonment involved. Further, the Applicant became aware of abandonment in October 2006 and immediately took action by retaining experienced patent attorneys of *Leaders P.L.C.* in South Korea, who requested us *IPLA P.A.* to file a petition with an amendment in November 2006. Thus, the Applicant respectfully submits the delay of filing a petition was unintentional.

Applicant further submits that the application was initially abandoned owing to *unavoidable* communication problems between a Korean-illiterate American patent attorney and English-illiterate Koreans. To enter a PCT national stage application with the USPTO under 35 U.S.C. 371, the applicant had hired Mr. Lee who then hired WNJ. As is always the case in a patent application in a foreign country, there has been no direct communications between the Applicant and WNJ. Only two types of communications existed: one between the Applicant and Mr. Lee in Korean language; and the other between Mr. Lee and WNJ in written English.

Applicant's initial approach to file a petition based upon *unavoidable* abandonment was dissuaded due to burden of English translation that would generate other language-oriented miscommunications. *IPLA P.A.* the current attorney recommended an unintentional-base petition under 37 CFR 1.137(b) over an unavoidable-base petition 37 CFR 1.137(a) because we knew that the abandonment was close to unavoidable and not at all intentional and that the other approach will result in more attorney fees with less chance of being granted.

Application No.09/254,058

Attorney Docket: 2016-11

Grantable Petition Requirements under 37 CFR 1.137(b)

Applicant submitted a Petition to Revive an Unintentionally Abandoned Application under 37 CFR 1.137(b) together with (1) an amendment in response to a non-final rejection, (2) the petition fee in the amount of \$750 for small entity (individual), (3) a statement that the entire delay in filing the amendment from the due date fro the reply until the filing of a grantable petition was unintentional. Each of intentional or deliberate abandonment issues raised by the Petition Examiner has been fully studied, answered and cleared by the foregoing explanation. Applicant now believes that the petition is in condition for grant.

Applicant respectfully requests reconsideration of the petition and transfer of the amendment to the corresponding Art Unit. If it is believed that a telephone conversation would expedite the decision, the Petition Examiner is invited to contact the undersigned attorney at the number listed below.

Respectively submitted,

Date: October 9, 2007



James E. Bame

Regis. No. 44521

Tel: 213-384-7200

IPLA P.A.

3580 Wilshire Blvd 17th Fl.

Los Angeles, CA 90010